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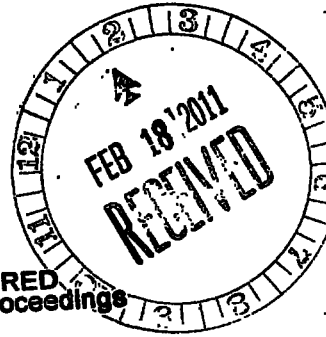
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February 15, 2011



ENTERED
Office of Proceedings

FEB 18 2011

Part of
Public Record

VIA OVERNIGHT MAIL

Attn: Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
Washington, D.C. 20423-0001

RE: Portland & Western Railroad, Inc. – Petition for Declaratory Order-
Certain Rates & Practices as Applied to RK Storage & Warehousing,
Inc.

STB Docket No. FD35406

Dear Chief:

Pursuant to the February 7, 2011 Order entered by the Circuit Court of the State of Oregon for the County of Multnomah ("State Court"), a copy of which is enclosed for your reference, we are respectfully placing the Surface Transportation Board ("STB") on notice of the entry of this Order.

Pursuant to 49 U.S.C. § 11705, Portland & Western Railroad, Inc. ("PNWR") was required to initiate the action in State Court, and then seek a transfer to the Surface Transportation Board ("STB") of the demurrage and service-related issues that fall within its exclusive jurisdiction. Upon transferring these issues to the STB, the State Court abated the State Court action for one (1) year. Due to, *inter alia*, the voluminous nature of the documents-PNWR was required to obtain and analyze from different offices across the United States and having to locate witnesses, some of which had retired from PNWR, it took approximately six (6) months for PNWR to prepare its case to present it to the STB in one shot. The Respondent then requested a two-month extension to reply to the Petition. As the expiration of the abatement was approaching, PNWR filed a Motion to Continue the Abatement in the State Court. The state court indicated that it would abate the case for another six (6) months and instructed PNWR to advise the STB of this deadline and request a decision prior to the expiration of the abatement on July 28, 2011.

If the STB does not reach a decision by July 28, 2011, PNWR fears that the State Court will not grant PNWR another abatement and will instead, require PNWR to try the case at the State Court level and then enter its own decision as to the demurrage and rail service issues that are before the STB in this matter.

Thank you for your consideration in this matter and please let me know if you require anything further.

Sincerely,


P. Campbell Ford

Enclosure/

Original and 10 copies of February 7, 2011 Order from state court

C: Larry Davidson (1 copy only)
Timothy J. Coleman (1 copy only)

FILED

4TH JUDICIAL DIST.

2011 FEB -8 PM 5:38

FILED

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MULTNOMAH

PORTLAND & WESTERN RAILROAD,
INC.,

Case No. 0907-10274

Plaintiff,

ORDER

v.

RK STORAGE & WAREHOUSING, INC.,

ENTERED

Defendant.

FEB 10 2011

RECEIVED
FEB 07 2011

ANGEL LOPEZ
CIRCUIT COURT JUDGE

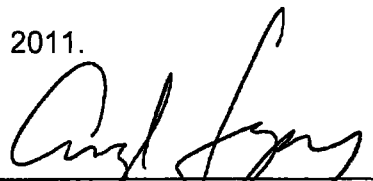
IN REGISTER BY EG

Plaintiff's Motion to continue the abatement of this case was heard at *ex parte* on January 28, 2011. Plaintiff appeared through its attorneys P. Campbell Ford and Nicholas E. Wheeler. Defendant appeared through its attorney Larry R. Davidson. The court, after reviewing the parties' briefing and hearing argument from counsel, hereby ORDERS:

1. Plaintiff's motion is GRANTED IN PART. The abatement of this case is extended for six additional months to July 28, 2011; and

2. The parties are ordered to advise the Surface Transportation Board of the extended abatement deadline and request the STB's decision before that date.

DATED this 7 day of February, 2011.


The Honorable Angel Lopez
Acting Presiding Court Judge

Submitted by:
Nicholas E. Wheeler, OSB No. 044491
Of Attorneys for Plaintiff

CERTIFICATE PURSUANT TO UTCR 5.100(2)

I hereby certify that service of the foregoing Order was made on the date and in the manner indicated below, upon opposing counsel not less than 3 days prior to submission to the court and/or was mailed to any unrepresented party at the party's last known address not less than 7 days prior to submission to the court, complying with the requirements of UTCR 5.100, in accordance with the certificate of service below.

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing ORDER on the date indicated below by:


- ☒ mail with postage prepaid, deposited in the US mail at Portland, Oregon,
☐ hand delivery,
☐ facsimile transmission,
☐ overnight delivery,
☒ email.

If served by facsimile transmission, attached to this certificate is the printed confirmation of receipt of the document(s) generated by the transmitting machine. I further certify that said copy was placed in a sealed envelope delivered as indicated above and addressed to said attorney(s) at the address(es) listed below:

Larry R. Davidson **VIA U.S. MAIL**
Attorney at Law
1850 Benjamin Franklin Plaza
One SW Columbia Street
Portland, OR 97258
Of Attorneys for Defendant

Campbell Ford **VIA EMAIL**
Ford, Miller & Wainer, PA
1835 North Third Street
Jacksonville, FL 32250
Of Attorneys for Plaintiff, *Pro Hac Vice*

DATED: January 31, 2011


Nicholas E. Wheeler